

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

Bail Appl.No. 4580 of 2007()

CRIME NO. 110/07 PF THADIYITTAPARAMBU POLICE STATION
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PETITIONER : ACCUSED:

ABDUL JALEEL, AGED 45,
S/O.ABU, PALACKATTUKUZH, MANETH HOUSE,
ARACKAPPADY VILLAGE, VENGOLA KARA.

BY ADV. SRI.V.RAJENDRAN (PERUMBAVOOR)
SRI.GEORGE VARGHESE KIZHAKKAMBALAM

RESPONDENTS: COMPLAINANT:

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1. STATE OF KERALA REPRESENTED BY DIRECTOR
GENERAL OF PROSECUTIONS, HIGH COURT OF KERALA,
ERNAKULAM.
 2. SUB INSPECTOR OF POLICE,
THADIYITTAPARAMBU POLICE STATION.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 30/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

B.A.No. 4580 of 2007

Dated this the 30th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations in a crime registered under Section 376 I.P.C. The alleged incident took place on 3.7.2007. There were two instances of sexual intercourse on that day at 10 a.m. and 2 p.m. respectively. The defacto complainant is a married woman, aged about 33 years. It is her case that she was called by the accused for manual work. She was allegedly taken in his autorikshaw to his house. There she was doing her work. She was called inside and the petitioner allegedly had sexual intercourse with her using force and under threat. Later he allegedly went out of the house and brought lunch for them. They together had lunch. After lunch, she was lying down to take rest. Then the second instance of rape is alleged to have taken place. In the evening she was allegedly taken to her house in his autorikshaw. After going to her house, she is alleged to have complained to her husband. He allegedly said that they can go to the police station the next day. There was allegedly a mediation talk and the husband had

allegedly beaten her consequent to the incident. It was thereafter that she was admitted in the hospital on 5.7.07 and lodged the present complaint on 6.7.07. Investigation is in progress.

2. The learned counsel for the petitioner prays, the learned Prosecutor does not seriously oppose the said prayer and I am satisfied in the facts and circumstances of this case, to which I have made brief reference already, that this is a fit case where directions under Section 438 Cr.P.C. can be issued in favour of the petitioner. A more detailed discussion on the acceptability of the allegations and the credibility of the data collected does not appear to be necessary in the facts of this case. Appropriate conditions can, of course, be imposed in the interests of a fair, efficient and expeditious investigation.

3. This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 6.8.2007 at 11 a.m. The learned Magistrate shall release him on regular bail on condition that he executes a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 4 p.m. on 7.8.07, 8.8.07 and 7.8.2007. During this period the petitioner can be interrogated in custody and the potency test can be conducted. Thereafter he shall appear before the Investigating Officer on all Mondays and Fridays between 10 a.m. and 12 noon for a period of three months and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 6.8.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(b) If the petitioner were arrested prior to his surrender on 6.8.2006 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.50,000/- without any surety undertaking to appear before the learned Magistrate on 6.8.2007.

(R. BASANT)
Judge

B.A.No. 4580 of 2007

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